IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2725 of 1985

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

EXECUTIVE ENGINEER

Versus

CHAUHAN SAVJI KESHABHAI & ORS.

Appearance:

1. Special Civil Application No. 2725 of 1985

MR DHAVAL D VYAS for MR DD VYAS for the Petitioner

Respondents SERVED

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 19/10/2004

ORAL JUDGEMENT

The petitioner - District Panchayat, Surendranagar, by this common petition, challenges the

common judgment and award dated 10th December, 1984 passed by the learned Presiding Officer, Labour Court, Rajkot (hereinafter referred to as "the Labour Court") in Reference (LCR) Nos.28/1983 and 186/1983. By impugned award the Labour Court has directed the Panchayat to reinstate the workmen in service and to pay them backwages.

Learned advocate Mr.Vyas has submitted that the workmen were appointed on 28th January, 1981 for a specified period on a particular project. The said appointment was extended time and again. On 30th July, 1982 the workmen were given fresh appointment for a period of six months on condition that the Panchayat shall be at liberty to terminate the service of the workmen, if not required. Mr.Vyas has submitted that on completion of the concerned project the service of the workmen was terminated on 1st August, 1982. The said order of termination having been made in consonance with the terms and conditions of appointment, the discharge of the workmen cannot be said to be retrenchment within the meaning of Section 2(oo) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"). The provisions of Section 25-F of the Act, therefore, cannot be attracted. He has submitted that the Labour Court has erred in holding that the discharge of the workmen from service was retrenchment within the meaning of the Act and the provisions of Section 25-F of the Act were attracted. He has submitted that in absence of any evidence the Labour Court has erred in awarding backwages to the workmen. In support thereof, he has relied upon the judgments of this Court in the matters of Chauhan Chimansinh Bharatsinh and others v/s. State of Gujarat and others [1997(3) GCD 519 GUJ] and of Purshottambhai R.Kachhadia v/s. State of Gujarat and others [2000(2) GLR 1793].

In the matter of Chauhan Chimansinh Bharatsinh and others (supra), the petitioners - workmen were appointed on work-charge establishment of the State Government intermittently for a specified period. The appointment came to an end by afflux of time. In the above referred matter of Purshottambhai R.Kachhadia also the appointment of the workman was on daily wages for a specified period. The employment was terminated under a stipulation contained in the order of appointment. In the present case, the service of the workmen was terminated prematurely and the workmen were in continuance employment without any break. The aforesaid judgments, therefore, shall not lend support to the petitioner - Panchayat.

Indisputably, the employment of the workmen was terminated prematurely before the expiry of the specified period. Such termination would undoubtedly be retrenchment within the meaning of the Act and would attract Section 25-F of the Act. Admittedly, the order of termination was made in contravention of Section 25-F of the Act. The Labour Court, therefore, was justified in ordering reinstatement of the workmen in service and in payment of backwages to the workmen. No interference is warranted. Petition is dismissed. Rule is discharged. There shall be no order as to cost.

(Ms. R.M.Doshit, J.)
/sakkaf